

Date of Hearing: June 1, 2020

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
SB 625 (Bradford) – As Amended May 26, 2020

**SENATE VOTE:** Not relevant

**SUBJECT:** Central Basin Municipal Water District: receivership.

**SUMMARY:** Dissolves the Board of Directors (Board) of the Central Basin Municipal Water District (CBMWD) and requires the Water Replenishment District of Southern California (WRD) to act as the receiver for CBMWD, among other changes. Specifically, **this bill:**

- 1) Specifies that the Board is hereby dissolved, and that a member of the Board shall have no claim for benefits other than those the member actually received while a member of the Board.
- 2) Provides that the Board shall surrender all control of the district and its resources to WRD, and that the Board shall surrender to CBMWD staff all CBMWD property, including, but not limited to, keys, mobile telephones, and credit cards, and access to CBMWD bank accounts and other resources or information provided to the Board in their capacity as directors.
- 3) Specifies that the Board shall not have any authority, including, but not limited to, the authority to do either of the following:
  - a) Represent the interests of the voters or public water systems within the service territory of CBMWD; or,
  - b) Influence the operation of CBMWD.
- 4) Provides that the November 3, 2020, election for directors of the Board shall not occur.
- 5) Requires WRD to act as the receiver for CBMWD.
- 6) Specifies that WRD shall have all necessary powers as described in this bill to take control of CBMWD, including, but not limited to, powers related to assets, revenues, employees, facilities, and services.
- 7) Requires any financial institutions holding money or other assets owned by CBMWD to transfer control of those assets to WRD.
- 8) Provides that all powers vested in the Board are hereby transferred to the board of directors of WRD, except that WRD shall not have the authority to do either of the following:
  - a) Dissolve CBMWD; or,
  - b) Revise the transfer of powers from CBMWD to WRD as provided in this bill.

- 9) Specifies that the board of directors of WRD shall, on or before 30 days after the effective date of this bill, present a financial plan for managing the receivership to its existing budget advisory committee.
- 10) Requires WRD to, on or before 60 days after the effective date of this bill, complete the annual process required by the Uniform Standby Charge Procedures Act to impose the standby charge that CBMWD has imposed annually since 1991.
- 11) Provides that WRD shall use only CBMWD's revenues to pay the costs of the receivership and the reasonable costs for the Los Angeles County Local Agency Formation Commission (LAFCO) to complete the municipal service review (MSR), as required by this bill.
- 12) Specifies that to the extent permitted under the Constitution of the United States or the Constitution of the State of California, WRD shall not be held liable for claims concerning the operation and supply of water from CBMWD before the commencement of receivership.
- 13) Requires the LAFCO to, using its existing authority, conduct an MSR of CBMWD.
- 14) Specifies that the LAFCO shall report the results of the MSR to the Legislature on or before six months after the effective date of this bill or December 31, 2020, whichever date occurs later.
- 15) Provides that the report shall focus, as specified, by recommending alternatives for long-term governance of the services of selling Metropolitan Water District of Southern California (Met) water to public water systems in the service territory of CBMWD and selling recycled water from the Los Angeles County Sanitation Districts.
- 16) Requires the LAFCO to, through a public process, seek ideas for governance of CBMWD from all of the following:
  - a) Customers who buy water from CBMWD, represented by the Central Basin Water Association;
  - b) Other public agencies in or near CBMWD's service territory, including, but not limited to, the County of Los Angeles, WRD, and Met; and,
  - c) The general public in and near CBMWD's service territory.
- 17) Specifies that the LAFCO shall include the results of the public process in the report.
- 18) Provides that the changes in this bill shall become inoperative 18 months after the effective date of this part, and as of January 1 of the following year, is repealed.
- 19) Contains numerous findings and declarations to support its purposes.
- 20) Specifies that no reimbursement is required by this act because a local agency or school district has the authority to levy service charges, fees, or assessment sufficient to pay for the program or level of service mandated by this act. However, if the Commission of State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made.

**EXISTING LAW:**

- 1) Provides, within the Municipal Water District Law of 1911, for the formation of municipal water district and grants those districts specified powers.
- 2) Permits a municipal water district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district.
- 3) Requires the CBMWD Board to be composed of eight directors until the elected directors elected at the November 8, 2022, election take office, when the Board would be composed of seven directors, as specified.
- 4) Enacts the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), which:
  - a) Controls how local officials change the boundaries of cities and special districts, putting LAFCOs in charge of the proceedings; and,
  - b) Directs LAFCOs to ensure that services are effectively and efficiently delivered, and local governments can only exercise their powers and provide services where allowed to by LAFCO, including the formation of new cities and special districts, modifications of existing boundaries, and dissolutions of unsustainable special districts.

**FISCAL EFFECT:** This bill is keyed fiscal and contains a state-mandated local program.

**COMMENTS:**

- 1) **Bill Summary.** This bill dissolves the CBMWD Board and requires WRD to act as a receiver for CBMWD. This bill restricts the authority of the Board and provides that the November 3, 2020, election for directors of the Board shall not occur. This bill specifies that WRD shall have all necessary powers to take control of the district, including, but not limited to, powers related to assets, revenues, employees, facilities, and services. This bill also requires the LAFCO to conduct an MSR and provide recommended alternatives for governance of CBMWD. Lastly, this bill requires the LAFCO to report the results of the MSR to the Legislature, as specified. This bill is sponsored by the author.
- 2) **Author's Statement.** According to the author, "The Central Basin Municipal Water District (CBMWD) is in disarray. The legitimacy of its Board of Directors has been called into question. Four members of an eight-member board took over the district in January, arguing they constituted a majority because one member had resigned. The LA County DA's Office demanded that the Board cure its violations of the Brown Act, but the Board's attorney refused to comply. Current meetings continuously fail to accomplish vital agenda items, as the directors argue about who chairs the meeting and then adjourn. CBMWD will not be able to act until the issue of control is resolved.

"Due to the COVID-19 pandemic, a consistent water supply for our communities is more essential than ever. CBMWD serves over 1.5 million people from 24 cities and unincorporated areas in southeast Los Angeles. In order to maintain the District's operations, SB 625 will appoint the Water Replenishment District of Southern California as a temporary

receiver for CBMWD. Simultaneously, this bill will task the Local Agency Formation Commission of Los Angeles (LAFCo) with finding the best way to make long-term governance corrections for CBMWD. SB 625 takes immediate action to protect the needs of the people of Southeast Los Angeles County by ensuring a reliable supply of water is maintained now and develops a plan for how the District's responsibilities can be best managed when the receivership ends."

- 3) **Central Basin Municipal Water District.** CBMWD was formed in 1952 by the voters, pursuant to the Municipal Water District Act of 1911, to help mitigate the over pumping of groundwater in southeast Los Angeles County. CBMWD is a member agency of Met and purchases imported water from MWD to wholesale to 40 retail water agencies and one wholesaler, which includes cities, water districts, mutual water companies, investor-owned utilities, and private companies. A smaller source of CBMWD incoming revenue is from the sale of recycled water for municipal, commercial, and industrial use. CBMWD serves nearly two million people in 24 cities in southeast Los Angeles County and in some unincorporated areas of the County.
- 4) **State Audit.** In December 2015, the Bureau of State Audits (BSA) issued a report that identified several key findings: a) the Board has failed to provide the leadership necessary for CBMWD to fulfill its responsibilities; b) a lack of policies to safeguard CBMWD's long-term financial viability; c) CBMWD's debt coverage ratio is insufficient and the CBMWD's credit rating has been downgraded several times; d) the Board's actions caused CBMWD to lose its insurance coverage; e) the Board violated state law in 2010 when it approved the establishment of a legal trust fund without adequate public disclosure; f) CBMWD frequently inappropriately avoided its competitive bidding processes while awarding contracts to vendors; g) CBMWD spent thousands of dollars on purposes unrelated to its underlying authority; and, h) CBMWD failed to follow its policies for hiring employees and failed to ensure stability in its key executive management position. To address these findings the audit made numerous recommendations, most of which did not require legislation. Additionally, the audit included an addendum report from CBMWD, which included actions to put in place many of the recommendations contained in the audit.

The audit only included one recommendation that required legislation: "To ensure the efficient and effective delivery of imported and recycled water in southeastern Los Angeles County, the Legislature should pass special legislation to preserve the district as an independent entity but modify CBMWD's governance structure. In doing so, the Legislature should consider a governance structure that ensures CBMWD remains accountable to those it serves, for example, by changing CBMWD's board from one elected by the public at large to one appointed by CBMWD's customers."

- 5) **Response to Audit.** To respond to the audit, the Legislature adopted AB 1794 (Garcia), Chapter 401, Statutes of 2016, to establish a new board governance structure for CBMWD. AB 1794 established an interim board of five elected members and three appointed members. The interim board will transition into a permanent board in 2022, and it will consist of four elected and three appointed members. The process to appoint members to the board began in January 2017, and has since resulted in controversy.

The City of Huntington Park nominated an individual to serve on the Board as the appointed member that represents cities, but the nomination was denied. CBMWD denied the

nomination saying the individual was “not a qualified candidate for the city Directorship because he is not an employee or designated representative of the city.” The City of Huntington Park proclaimed its nomination was wrongfully denied and filed a lawsuit, *The People of the State of California, et al v. John Oskoui*.

Last year, AB 591 (Garcia), Chapter 124, Statutes of 2019, sought to address the above controversies by doing the following:

- a) Defined “representative” for the purposes of appointing CBMWD board members to mean a consultant to an entity, a contractor of an entity, or, if nominated by a mutual water company, a member of the governing board of the mutual water company;
  - b) Required a nominee for an appointed position to be an employee or a representative of the nominating entity;
  - c) Provided that in order to be eligible for nomination, a consultant to or contractor of an entity must have commenced services to that entity at least one year prior to nomination; and,
  - d) Stated that appointed board members take office at noon on the first Friday in December following that director’s appointment.
- 6) **Continuing Issues.** This bill contains a number of findings and declarations to support its need. As stated in the bill, and despite past legislative efforts, the Board has continued to mismanage CBMWD and has not resolved some of the issues found in the 2015 audit conducted by the BSA. Additionally, this bill states the following:
- a) In late 2019, four members of the Board started asserting that a majority of the Board only required four members, because one of the appointed members had resigned in October 2019;
  - b) On January 30, 2020, the four directors rejected the advice from CBMWD’s counsel at a public meeting that with only four members remaining, they no longer had a quorum and could not legally transact business;
  - c) On March 6, 2020, the Los Angeles District Attorney’s Office sent the Board a letter demanding that it cure the February 6, 2020, violations of the Brown Act’s open meeting requirements. Specifically, the letter demanded the cure of a deficient notice of the February 6, 2020, special meeting and the insufficient votes to appoint a new attorney. The Board responded in a letter rejecting the demand and arguing that four members constituted a majority; and,
  - d) On March 25, 2020, CBMWD customers filed *City of Commerce et al v. Central Basin Municipal Water District* to void the Board’s alleged illegal actions and to stop the Board from further illegal action. In response, the Board’s purported attorney filed an ex parte application for the superior court to order that four board members constituted a majority. The court denied the ex parte application, and set the trial for July 23, 2020.

- 7) **Water Replenishment District of Southern California.** State law allows the formation of water replenishment districts to recharge water into groundwater basins for later withdrawal by water purveyors. In 1959, the voters of Los Angeles County established the WRD. Created to counteract the effects of over pumping groundwater from the West Coast and Central basins, WRD's mission is "to provide, protect and preserve high-quality groundwater through innovative, cost-effective, and environmentally sensitive basin management practices for the benefit of residents and businesses of the Central and West Coast Basins." The WRD is the state's sole water replenishment district. It earns revenue by charging water replenishment assessments to the agencies, utilities, and companies that pump groundwater. The district also gets property tax revenues from its share of the 1% property tax rate. The WRD uses these funds to secure water – by purchasing imported water and constructing projects that produce local water supplies – that percolates into the groundwater basin.

Among other activities, the WRD administers a Safe Drinking Water Program to treat contaminated groundwater as a means to reduce reliance on imported surface water. As a part of that effort, the WRD established the Disadvantaged Communities Outreach Assistance Program that provides assistance to water systems in disadvantaged areas to apply for state funding for safe drinking water projects. To date, WRD has assisted 10 public water systems that serve disadvantaged communities with this program.

- 8) **LAFCO.** LAFCOs are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structures, and preparing a sphere of influence for each city and special district within each county. The courts refer to LAFCOs as the Legislature's "watchdog" over local boundary changes. LAFCO law establishes procedures for local government changes of organization, including special district consolidations. LAFCOs regulate boundary changes through the approval or denial of proposals by other public agencies or individuals for these procedures.

The process for most boundary changes and agency formations requires numerous steps:

- a) Application to LAFCO, by petition or resolution, for an environmental review, property tax exchange agreement, and a plan for services that describe what services will be provided and how the services will be financed;
- b) Noticed public hearing, testimony, and approval or disapproval by LAFCO in which LAFCO can impose terms and conditions;
- c) Additional public hearing for protests. If a majority of the city's voters file protest, the disincorporation stops, and if not, LAFCO must order an election on the proposed disincorporation;
- d) If existing law requires it, an election that requires a majority vote approval; and,
- e) LAFCO staff files documents to complete the reorganization. LAFCOs are required to approve district consolidations where each merging district passes a resolution endorsing the consolidation, but provisions that govern protest and elections still apply.

- 9) **Policy Consideration.** LAFCO law currently authorizes the formation, dissolution, consolidation, or merger of a municipal water district through a deliberate, public process conducted at the local level. The Legislature created LAFCOs to coordinate the logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structures. The Committee may wish to consider if the exigent circumstances that CBMWD is facing make this bill necessary or if the decision of who provides local services is best left to the local communities.
- 10) **Recent Legislation.** AB 1577 (Gipson), Chapter 859, Statutes of 2018, required the State Water Resources Control Board (SWRCB) to order the Sativa-Los Angeles County Water District (Sativa) to accept administrative and managerial services from an administrator selected by SWRCB, and required that upon the appointment of an administrator, Sativa's board of directors shall surrender all control to the appointed administrator and thereafter cease to exist. This bill provided for the transfer of assets, liabilities, adjudicated water rights, responsibilities, and service obligations to any public water system. Lastly, this bill provides liability protection to any appointed administrator, any successor agency to Sativa designated by the LAFCO to take over Sativa, any receiving operator of a public water system that provides service to the territory of Sativa, any water corporation that acquires Sativa, and the LAFCO.
- 11) **Arguments in Support.** The City of Downey argues that, "Over the course of the last four months, the CBMWD has consistently failed to hold a meeting. As a result, an ever increasing number of vital issues requiring action by CBMWD's Board of Directors have not been addressed exposing CBMWD to additional legal and financial challenges. This unprecedented and unsustainable dysfunction will undoubtedly result in higher water rates imposed on those with the least ability to pay, and will jeopardize access to safe imported water vital to Southern California. SB 625 will resolve the CBMWD's failure in meeting its obligations and responsibilities by temporarily putting WRD in charge of CBMWD's day-to-day operations. Moreover, this bill would require the LAFCO to conduct a MSR of CBMWD and to seek ideas through a public process for governance of CBMWD and report results of those activities to the Legislature."
- 12) **Arguments in Opposition.** Art Chacon, CBMWD Director, argues that, "Senate Bill 625 is an attempt to privatize a public water agency and deny the public their right to elect their representatives. Central Basin is not in financial dire straits nor fiscally unstable. The issue with Central Basin is a local political battle between private water companies and Central Basin. This bill lacks transparency and smacks of a blatant power grab by special interests. Central Basin is currently in litigation which will address the very issues in SB 625. The author of this bill never reached out to CBMWD nor communicated any concern of Central Basin's operations. SB 625 should not be voted out of committee and let Central Basin handle its own political battles."
- 13) **Committee Amendments.** The Assembly Rules Committee approved the addition of an urgency clause to this bill on May 26, 2020, and is proposed to be added to this bill as a committee amendment. Additionally, the amendments make a few minor changes in the findings and declarations.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Association of Mutual Water Companies  
California Water Association  
Central Basin Water Association  
City of Downey  
City of Lakewood  
Los Angeles County Board of Supervisors  
Southeast Water Coalition

**Opposition**

Art Chacon, CBMWD Vice President  
Carlos Penilla, CBMWD Interim General Manager  
Leticia Vasquez Wilson, CBMWD Director, Division 4  
Phil Hawkins, CBMWD Director, Division 5

**Analysis Prepared by:** Jimmy MacDonald / L. GOV. / (916) 319-3958